National Anti-Corruption Commission

Providing information to support assessments

This fact sheet supports Commonwealth agencies to respond to requests for information from the National Anti-Corruption Commission during the assessment process. It clarifies obligations, protections, legal risk and considerations in relation to privacy law and secrecy provisions.

This factsheet is general in nature and does not replace agency-specific legal advice.

Why early information matters

The National Anti-Corruption Commission (the Commission) assesses referrals to determine whether a corruption issue arises and whether further action should be taken under the *National Anti-Corruption Commission Act 2022* (NACC Act) (see s 8, 9 and 41).

To inform assessment, the Commission may request further information from agencies. Early access to relevant information helps the Commission make timely, proportionate decisions and may avoid the need for escalation.

Mandatory referrals

Where an agency head or delegate makes a mandatory referral to the Commission under s 38 of the NACC Act, there is an ongoing obligation under s 38(2) and (3) to provide to the Commission all information in the agency's possession that is relevant to the referral, as soon as reasonably practicable. A request for further information in an agency's possession is supported by this obligation.

Voluntary cooperation is expected and supported

The Commission will often seek information on a voluntary basis to help assess a referral or other information it has received. The legislative framework supports agencies to provide information even where there is no formal requirement to do so. As explained below, a person who provides information to the Commission about a corruption issue has protections from liability for doing so.

Even where there is no legal requirement to provide information, agencies are expected to:

- act with integrity, accountability and cooperation
- support the Commission's statutory functions.

This reflects broader Commonwealth integrity expectations and encourages agencies to share relevant information with oversight bodies where appropriate.

If an agency declines to provide the requested information voluntarily, the Commission may exercise its coercive powers under the NACC Act to compel production.

Common concerns

Liability protections

Under s 24 of the NACC Act, a person who provides information about a corruption issue to the Commission is protected from:

- civil liability
- criminal liability
- administrative or disciplinary action.

Additionally, no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure.

These protections are designed to support cooperation. **Section 24 does not apply to liability for knowingly making a false or misleading statement.**

Secrecy provisions

Most secrecy provisions do not prevent disclosure to the Commission.

Section 28 of the NACC Act provides that the protection afforded by s 24 for providing information about a corruption issue applies despite any other provision of a law of the Commonwealth (for example, secrecy provisions) unless the provision:

- was enacted after the NACC Act, and
- is expressly stated to have effect despite Part 4 or s 24 of the NACC Act.

For voluntary requests, agencies should consider whether disclosure is authorised under relevant legislation. Where there is a risk of serious or systemic corruption, lawful disclosure will often be supported.

Privacy laws

Under Australian Privacy Principle (APP) 6.2(e), agencies may use or disclose personal information where it is reasonably necessary for enforcement-related activities conducted by, or on behalf of, an enforcement body.

The Commission is an enforcement body, and its functions are enforcement-related activities under the *Privacy Act 1988* (Cth), s 6(1).

This means agencies can share personal information with the Commission where it is:

- relevant to a corruption issue, and
- reasonably necessary to support the Commission's functions.

This applies during the assessment stage and, where applicable, any preliminary investigation or investigation.

Confidentiality

Information provided to the Commission to support the assessment of a referral will be handled confidentially and used in accordance with applicable laws and our Privacy statement.

Key takeaway

Agencies are encouraged to share information relevant to a corruption issue with the Commission, consistent with their legislative and operational obligations.

The legislative framework, including privacy and liability protections, supports lawful information sharing.

The Commission is committed to working collaboratively with agencies. If unsure, agencies should seek internal legal or integrity advice or engage early with the Commission to clarify the request.

Contact us

Please use our webform to make a report of corrupt conduct.

If in doubt about whether to refer a matter to the Commission, contact us.

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